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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,355	07/06/2001	H. Craig Dees		CONTINUATION NO.
		II. Claig Dees	PHO-122	5998
7	590 09/27/2002			
COOK, ALE	X, McFARRON, MA			
CUMMINGS &	& MEHLER, LTD.	EXAMINER		
Suite 2850	213, 212.	EPPS, JANET L		
200 West Adan				
Chicago, IL 60606			ART UNIT	PAPER NUMBER
			1635	77
	•		DATE MAILED: 09/27/2002	`1
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Please find below and/or attached an Office communication concerning this application or proceeding.

1) Responsive to communication(s) filed on 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-33 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) is/are objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. 10) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received.	Office Action Summers		Application No.	Applicant(s)				
Janet L. Epps-Ford 1635 Jane			09/900,355	DEES ET AL.				
- The MALING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE £ MONTH(S) FROM THE MALING DATE OF THIS COMMUNICATION. THE MALING DATE OF THIS COMMUNICATION. after SXx (9) MONTHS from the maliting table provisions of JCRF 1.158(a). In no event, however, may a reply be limity filed at the period for reply specified above is lasts and thiny (30) days, a reply within the sautory premium of thiny (30) days, will be considered freely if the period for reply specified above is lasts and thiny (30) days, a reply with the sautory premium of thiny (30) days, will be considered freely if the period for reply specified above is lasts and thiny (30) days, and specified above is last saturative period will appear and expert and specified or reply specified above is last saturative period will appear and will be considered freely if the period of the communication of the specified above is last saturative period will appear and will be considered freely if the period of the maling date of this communication, event limited (44) to \$1.50.		Office Action Summary	Examiner	Art Unit				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Editoricans or informating bear without whether provincing of 3 CER 1.136(a). In no event, however, may a reply be limitely filled after SX (8) MONTHS from the mailing date of this communication. I the period or may specified store, the maintaine shallone period will apply and will expire SX (10) MONTHS from the mailing date of this communication. I the period or may specified store, the maintaine shallone period will apply and will expire SX (10) MONTHS from the mailing date of this communication. I the period of may specified store, the maintaine shallone period will apply and will expire SX (10) MONTHS from the mailing date of this communication. I the period of maintaine shallone period will be applied to the communication. The same parent term adjustment. See 37 CFR 1.70(b). Status 1)		The SEAU INC DATE of the	Janet L. Epps-Ford					
THE MAILING DATE OF THIS COMMUNICATION. Extensions of mem gab be available under the provisions of 3 or Fin. 1354(a). In no event, however, may a reply be limely filed Extensions of mem gab be available under the provisions of 3 or Fin. 1354(a). In no event, however, may a reply be limely filed Extensions of mem gab be available under the more more of the communication. If the provision of the provision of the communication of the provision	Period fo	The MAILING DATE of this communication app r Reply	ears on the cover sheet with the c	orrespondence address				
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1 Delegational Transport of Maria								

Application/Control Number: 09/900,355

Art Unit: 1635

DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-11, 19-27, and 31-33 drawn to a medicament comprising at least one halogenated xanthene as a primary active component, classified in class 549, subclass 223.
 - II. Claims 12-18, and 28-30, drawn to the use of a halogenated xanthine in the preparation of a medicament, use of a halogenated xanthine for chemotherapeutic treatment, and a method of treating comprising applying a medicament including at least one halogenated xanthine, classified in class 604, subclass 20.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product of invention I can be used in a different process other than those set forth in invention II. For example, invention I can be used for concentrating halogenated xanthine radiosensitizers in diseased tissue for imaging purposes.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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4. Claims 11 and 18 generic to a plurality of disclosed patentably distinct species comprising multiple routes of administration. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

- 5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L Epps-Ford, Ph.D. whose telephone number is 703-308-8883. The examiner can normally be reached on M-T, Thurs-Friday 9:00AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader can be reached on (703)-308-0447. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-746-5143 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone nuproper is 703-308-0196.

Janet L Epps Ford, Ph.I

Art Unit 1635

JLE September 25, 2002